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California Physicians' Service d/b/a Blue Shield Of
California*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GARRISON L. SANDBERG,
Plaintiff,

vs.

CALIFORNIA PHYSICIANS'
SERVICE D/B/A BLUE SHIELD OF
CALIFORNIA,

Defendant.

Case No.: CV 12-03026 SBA

**JOINT STIPULATION RE
PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION TO
DISMISS; [PROPOSED] ORDER**

1 IT IS HEREBY STIPULATED by and between Plaintiff, Garrison L.
2 Sandberg, by and through his attorneys of record, Kantor & Kantor LLP, and
3 Defendant California Physicians' Service d/b/a Blue Shield Of California
4 ("Defendant," or "Blue Shield"), by and through its attorneys of record, that::

- 5 1. On October 9, 2012, Blue Shield filed a Motion to Dismiss Plaintiff's
6 second claim for relief in Plaintiff's First Amended Complaint. (ECF
7 No. 28). The hearing on the Motion to Dismiss was noticed for
8 November 16, 2012. At the time, the matter was assigned to the
9 Honorable Charles R. Breyer.
- 10 2. On October 19, 2012, Judge Breyer filed an Order of Recusal in the
11 matter and requested that the case be reassigned. (ECF No. 31).
- 12 3. On October 19, 2012, the case was reassigned to the Honorable
13 Saundra B. Armstrong. (ECF No. 32). The hearing date for the motion
14 to dismiss was vacated.
- 15 4. Plaintiff's opposition to the motion to dismiss was due on October 23,
16 2012. However, Plaintiff's counsel's office incorrectly calendared the
17 responsive deadline for the motion to dismiss when the case was
18 reassigned to Judge Armstrong.
- 19 5. On October 30, 2012, Blue Shield re-noticed the hearing on the motion
20 to dismiss for January 22, 2013. (ECF No. 35). Blue Shield filed a
21 reply in support of its Motion to Dismiss as well, noting that Plaintiff
22 had not opposed Blue Shield's Motion to Dismiss. (ECF No. 34).
- 23 6. Notwithstanding Plaintiff's failure to file a timely opposition brief and
24 Blue Shield's position that Plaintiff's Second Claim for Relief (the only
25 claim at issue in the Motion to Dismiss) fails as a matter of law, Blue
26 Shield agrees that Plaintiff may file an opposition to Blue Shield's
27 Motion to Dismiss if permitted by the Court to do so.
28

- 1 7. The parties further agree that Blue Shield shall not be prejudiced by
2 this stipulation.
- 3 8. Plaintiff's Opposition to Defendant's Motion to Dismiss is lodged
4 concurrently with this Joint Stipulation.
- 5 9. The parties agree that Blue Shield may file a reply to Plaintiff's
6 opposition to the motion to dismiss within 7 days after any Order by
7 this Court permitting Plaintiff to file an Opposition.

8

9 IT IS SO STIPULATED.

10 Respectfully submitted,

11 Dated: November 14, 2012

KANTOR & KANTOR LLP

12

13 BY: /s/ Elizabeth K. Green

14 Elizabeth K. Green
15 Attorneys for Plaintiff
 Garrison L. Sandberg

16

17 Dated: November 14, 2012

MANATT, PHELPS & PHILLIPS, LLP

18

19 BY: /s/ Amanda M. Knudsen

20 Amanda M. Knudsen
21 Attorneys for Defendant
22 California Physicians' Service
23 d/b/a Blue Shield Of California

24 *Filer's Attestation: Pursuant to General Order No. 45, Section X(B) regarding*
25 *signatures, Elizabeth K. Green hereby attests that concurrence in the filing of this document*
26 *has been obtained.*

27


28

[PROPOSED] ORDER

The Court, having considered the parties' Joint Stipulation Re Plaintiff's Opposition To Defendant's Motion To Dismiss, and finding good cause thereon, hereby orders that Plaintiff's Opposition to Defendant's Motion to Dismiss is deemed filed as of the date of this Order. Defendant may file and serve its reply to Plaintiff's opposition, in accordance with Local Rule 7-3(c), not more than 7 days after the date of this Order permitting Plaintiff to file an Opposition. *The parties shall deliver courtesy copies of all motion papers to Judge Armstrong at the Clerk's Office at the Oakland Courthouse within 14 days of the date this order is filed.*

IT IS SO ORDERED.

Dated: 11-16-12


UNITED STATES DISTRICT COURT
HON.SAUNDRA BROWN ARMSTRONG

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